

PATENT**Application # 10/042,142****Attorney Docket # 2000-0672 (1014-199)****REMARKS****RECEIVED
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The Examiner is respectfully thanked for the consideration provided to this application. Reconsideration of this application is respectfully requested in light of the foregoing amendments and the following remarks.

The specification has been amended to correct matters of form and one or more typographical errors. It is respectfully submitted that no new matter has been introduced.

Each of claims 8, 9, 14, 17, 18, 21, 24, 30, 31, 35, 40, 42, 47-49, 54, 61, 80, 87, and 89-91 has been amended for at least one reason unrelated to patentability, including at least one of: to explicitly present one or more elements implicit in the claim as originally written when viewed in light of the specification, thereby not narrowing the scope of the claim; to detect infringement more easily; to enlarge the scope of infringement; to cover different kinds of infringement (direct, indirect, contributory, induced, and/or importation, etc.); to expedite the issuance of a claim of particular current licensing interest; to target the claim to a party currently interested in licensing certain embodiments; to enlarge the royalty base of the claim; to cover a particular product or person in the marketplace; and/or to target the claim to a particular industry.

Claims 1-91 are now pending in this application. Claims 62-79 have been withdrawn. Each of claims 1, 18, 32, 49, 62, and 80 are in independent form.

I. The Anticipation Rejections

Each of claims 1, 2, 6, 7, 13, 14, 16, 18, 19, 23, 25, 32, 33, 37, 38, 44, 45, 47, 49, 50, 54, and 55 was rejected as anticipated under 35 U.S.C. 102(e). In support of the rejection, various portions of U.S. Patent No. 6,862,630 ("Garg") were applied. These rejections are respectfully traversed.

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To establish a *prima facie* case of express anticipation, the “invention must have been known to the art in the detail of the claim; that is, all of the elements and limitations of the claim must be shown in a single prior art reference, arranged as in the claim”. *Karsten Mfg. Corp. v. Cleveland Golf Co.*, 242 F.3d 1376, 1383, 58 USPQ2d 1286, 1291 (Fed. Cir. 2001); *See also*, MPEP 2131. The single reference must describe the claimed subject matter “with sufficient clarity and detail to establish that the subject matter existed in the prior art and that its existence was recognized by persons of ordinary skill in the field of the invention”. *Crown Operations Int’l, LTD v. Solutia Inc.*, 289 F.3d 1367, 1375, 62 USPQ2d 1917, 1921 (Fed. Cir. 2002). Moreover, the prior art reference must be sufficient to enable one with ordinary skill in the art to practice the claimed invention. *In re Borst*, 345 F.2d 851, 855, 145 USPQ 554, 557 (CCPA 1965), *cert. denied*, 382 U.S. 973 (1966); *Amgen, Inc. v. Hoechst Marion Roussel, Inc.*, 314 F.3d 1313, 1354, 65 USPQ2d 1385, 1416 (Fed. Cir. 2003) (“A claimed invention cannot be anticipated by a prior art reference if the allegedly anticipatory disclosures cited as prior art are not enabled.”)

The USPTO “has the initial duty of supplying the factual basis for its rejection.” *In re Warner*, 379 F.2d 1011, 154 USPQ 173, 178 (CCPA 1967).

Garg fails to establish a *prima facie* case of anticipation.

2. Inherent Anticipation

Establishing *prima facie* case of “[i]nherent anticipation requires that the missing descriptive material is necessarily present, not merely probably or possibly present, in the prior art.” *Trintec Indus., Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 1295, 63 USPQ2d 1597, 1599 (Fed. Cir. 2002); *See also*, MPEP 2112.

PATENT**Application # 10/042,142****Attorney Docket # 2000-0672 (1014-199)****B. Analysis****1. Claim 1**

Claim 1, from which each of claims 2-17 depends, states, *inter alia*, yet Garg does not teach “**maintaining a list of sessions** in enhanced stations (STAs) using the communications medium”. The present Office Action alleges that this claimed subject matter is found in Garg at “col. 8, lines 23-37”. See Page 3. Yet this applied portion of Garg allegedly states:

[r]eferring to FIG. 5, a block diagram of router 12 is shown in accordance with this invention. Router 12 includes a microprocessor 101 controlling operation of the router. A plurality of transceivers 102(a)-102(c) each couple router 12 to one of the plurality of sub networks 13. The processor 101 is linked to an address table 105 and operates to route frames received by one transceiver 102(a)-102(c) on one sub network 13(a)-13(c) onto another one of the sub networks 13(a)-13(c) on which the device to which the frame is addressed is located. Each transceiver 102(a)-102(c) includes a transmitter circuit 64 that is structured and functions as described earlier with respect to FIGS. 3, 4a, and 4b. Such structure and function assures that router 12 functions to transmit real time frames on the sub networks prior to non-real time frames.

Applicant respectfully asks, where does this applied portion of Garg teach:

- a) a “session”?
- b) “a list of sessions”?
- c) “maintaining a list of sessions”?
- d) “maintaining a list of sessions in enhanced stations (STAs)”?
- e) “maintaining a list of sessions in enhanced stations (STAs) using the communications medium”?

Applicant respectfully submits that at least this claimed subject matter is not present in the applied portions of Garg.

Claim 1, from which claim 2-17 depends, states, *inter alia*, yet Garg does not teach “each enhanced STA gaining access to the communications medium in a **centralized manner**”. The

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present Office Action alleges that this claimed subject matter is found in Garg at “col. 6, line 60 – col. 7, line 1”. *See* Page 3. Yet this applied portion of Garg allegedly states:

[i]n operation, the media access controller 72 receives a signal from channel sensor circuitry (not shown) on line 73 indicating that the network medium 14 is available for transmission. Upon receipt of such signal, the media access controller 72 generates a data frame request to the frame transmission circuit 110. Generally, the frame transmission circuit 110 provides the highest priority data frame stored in the random access memory frame buffer 102 to the media access controller 72 for transmission.

Yet the “media access controller” in Garg is within “a block diagram of a transmitter circuit 64 which is useful in implementing the **network interface card 62**”. *See* col. 6, lines 1-3. Thus, at most Garg discloses a “media access controller” for a single “client workstation”. *See* Fig. 2. Applicant respectfully submits that this applied portion of Garg does not teach “each enhanced STA gaining access to the communications medium in a centralized manner”.

For at least these reasons, it is respectfully submitted that the rejection of claim 1 is unsupported by Garg and should be withdrawn. Also, the rejection of claims 2-17, each ultimately depending from independent claim 1, is unsupported by Garg and also should be withdrawn.

2. Claim 2

Since claim 2 depends from claim 1, Applicant incorporates by reference each argument presented, *supra*, regarding claim 1.

Claim 2 recites, *inter alia*, yet the applied portions of Garg fail to teach, “a frame encoding of at least one HPNA v2-formatted frame is modified to allow a **higher encoding rate than permitted by HPNA v2**.” The present Office Action alleges that Garg teaches this claimed subject matter at “col. 8, lines 43-47”. *See* Page 3. Yet this applied portion of Garg allegedly states:

[t]he preferred prioritization scheme provides for eight priority levels, which can be represented by a three bit priority indicator. However, it should be appreciated

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that additional priority levels can be assigned to each frame by scaling the teaching of this preferred embodiment.

Applicant respectfully asks where this applied portion of Garg teaches:

- a) "encoding" anything whatsoever?
- b) "a frame encoding of at least one HPNA v2-formatted frame"?
- c) "a higher encoding rate than permitted by HPNA v2"? and
- a.) "a frame encoding of at least one HPNA v2-formatted frame is modified to allow a higher encoding rate than permitted by HPNA v2"?

Applicant respectfully submits that at least this subject matter is not taught by the applied portions of Garg. For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 2.

3. Claim 6

Since claim 6 depends from claim 1, Applicant incorporates by reference each argument presented, *supra*, regarding claim 1. For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 6.

4. Claim 7

Since claim 7 depends from claim 1, Applicant incorporates by reference each argument presented, *supra*, regarding claim 1. For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 7.

5. Claim 13

Since claim 13 depends from claim 1, Applicant incorporates by reference each argument presented, *supra*, regarding claim 1.

Claim 13 recites, *inter alia*, yet the applied portions of Garg fail to teach, "at least one selected non-MC STA receiving the message from the MC STA." The present Office Action alleges that Garg teaches this claimed subject matter at "col. 8, lines 23-37". *See* Page 4. Yet this applied portion of Garg allegedly states:

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[r]eferring to FIG. 5, a block diagram of router 12 is shown in accordance with this invention. Router 12 includes a microprocessor 101 controlling operation of the router. A plurality of transceivers 102(a)-102(c) each couple router 12 to one of the plurality of sub networks 13. The processor 101 is linked to an address table 105 and operates to route frames received by one transceiver 102(a)-102(c) on one sub network 13(a)-13(c) onto another one of the sub networks 13(a)-13(c) on which the device to which the frame is addressed is located. Each transceiver 102(a)-102(c) includes a transmitter circuit 64 that is structured and functions as described earlier with respect to FIGS. 3, 4a, and 4b. Such structure and function assures that router 12 functions to transmit real time frames on the sub networks prior to non-real time frames.

Applicant respectfully asks where this applied portion of Garg teaches:

- a.) any "message" whatsoever?
- b.) a "message from the MC STA"?
- c.) a "selected non-MC STA"? and
- d.) "at least one selected non-MC STA receiving the message from the MC STA"?

Applicant respectfully submits that at least this subject matter is not taught by the applied portions of Garg. For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 13.

6. Claim 14

Since claim 14 depends from claim 1, Applicant incorporates by reference each argument presented, *supra*, regarding claim 1.

Claim 14 recites, *inter alia*, yet the applied portions of Garg fail to teach, "responding at each selected non-MC STA receiving the message with a frame transmitted with the highest physical layer priority level available in the HPNA v2-formatted frame at an appropriate time based on the message from the MC STA." The present Office Action alleges that Garg teaches this claimed subject matter at "col. 6, lines 1-20". See Page 4. Yet this applied portion of Garg allegedly states:

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[r]eferring to FIG. 3, a block diagram of a transmitter circuit 64 which is useful in implementing the network interface card 62 (FIG. 2) is shown. Transmitter circuit 64 determines a priority order of frames for transmission and transmits data frames in such priority order. Transmitter circuit 64 includes a frame processing unit 74 that receives real time data frames and non-real time data frames from peripheral bus 44. Frame processing unit 74 includes a frame buffer management circuit 100 to manage data frames, a random access memory frame buffer 102 for storing incoming data frames, and a priority and address random access memory pointer table 104 to reference data frames. Frame processing unit 74 also includes a register 106 for storing an indicator representing the priority of frames available for transmission, a priority resolution circuit 108 for selecting the highest priority data frame available for transmission (or the priority data frame requested by the media access controller), and a frame transmission circuit 110 for retrieving data frames from the frame buffer 102 and transmitting data frames to the media access controller 72.

Applicant respectfully asks where this applied portion of Garg teaches:

- a.) any "message" whatsoever?
- b.) a "message from the MC STA"?
- c.) any "selected non-MC STA"?
- d.) "receiving the message with a frame transmitted with the highest physical layer priority level available in the HPNA v2-formatted frame at an appropriate time based on the message from the MC STA"? and
- e.) "responding at each selected non-MC STA receiving the message with a frame transmitted with the highest physical layer priority level available in the HPNA v2-formatted frame at an appropriate time based on the message from the MC STA"?

Applicant respectfully submits that at least this subject matter is not taught by the applied portions of Garg. For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 14.

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Since claim 16 depends from claim 1, Applicant incorporates by reference each argument presented, *supra*, regarding claim 1.

Claim 16 recites, *inter alia*, yet the applied portions of Garg fail to teach, "receiving a reply message at the MC STA from at least one selected non-MC STA in response to the transmitted message from the MC STA, the received message starting at a highest physical layer priority level available in a second HPNA v2-formatted frame." The present Office Action alleges that Garg teaches this claimed subject matter at "col. 6, lines 1-20". See Page 4. Yet this applied portion of Garg is presented, *supra*, regarding the rejection of claim 14.

Applicant respectfully asks where this applied portion of Garg teaches:

- a.) any "message" whatsoever?
- b.) "receiving a reply message at the MC STA"?
- c.) any message whatsoever "from at least one selected non-MC STA"?
- d.) any "transmitted message from the MC STA"?
- e.) a "received message starting at a highest physical layer priority level available in a second HPNA v2-formatted frame"? and
- f.) "receiving a reply message at the MC STA from at least one selected non-MC STA in response to the transmitted message from the MC STA, the received message starting at a highest physical layer priority level available in a second HPNA v2-formatted frame"?

Applicant respectfully submits that at least this subject matter is not taught by the applied portions of Garg. For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 16.

8. Claim 18

Claim 18, from which each of claims 19-30 depends, states, *inter alia*, yet Garg does not teach "maintaining a list of sessions in enhanced stations (STAs) using the communications

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medium". The present Office Action alleges that this claimed subject matter is found in Garg at "col. 8, lines 23-37". See Page 5. Yet this applied portion of Garg is presented, *supra*, regarding claim 1.

Applicant respectfully asks:

- a.) where does this applied portion of Garg teach a "session"?
- b.) where does this applied portion of Garg teach "a list of sessions"? and
- c.) where does this applied portion of Garg teach "maintaining a list of sessions in enhanced stations (STAs) using the communications medium"

Applicant respectfully submits that at least this claimed subject matter is not present in the applied portions of Garg.

Claim 1, from which claim 2-17 depends, states, *inter alia*, yet Garg does not teach "receiving a message at a non-Media Control Station (non-MC STA) from a Media Control(MC) STA, the non-MC STA and the MC STA **each being enhanced STAs that gain access to the communications medium in a centralized manner**". The present Office Action alleges that this claimed subject matter is found in Garg at "col. 6, line 60 – col. 7, line 1". See Page 3. Yet this applied portion of Garg is presented, *supra*, regarding claim 1.

The "media access controller" in Garg is within "a block diagram of a transmitter circuit 64 which is useful in implementing the network interface card 62". See col. 6, lines 1-3. Thus, at most Garg discloses a "media access controller" for a single "client workstation". See Fig. 2. Applicant respectfully submits that this applied portion of Garg does not teach "receiving a message at a non-Media Control Station (non-MC STA) from a Media Control (MC) STA, the non-MC STA and the MC STA **each being enhanced STAs that gain access to the communications medium in a centralized manner**".

For at least these reasons, it is respectfully submitted that the rejection of claim 18 is unsupported by Garg and should be withdrawn. Also, the rejection of claims 19-30, each ultimately depending from independent claim 18, is unsupported by Garg and also should be withdrawn.

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Since claim 19 depends from claim 18, Applicant incorporates by reference each argument presented, *supra*, regarding claim 18. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 19 recites, *inter alia*, yet the applied portions of the relied upon references fail to teach, "a frame encoding of at least one HPNA v2-formatted frame is modified to allow a higher encoding rate than permitted by HPNA v2."

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 19.

10. Claim 23

Since claim 23 depends from claim 18, Applicant incorporates by reference each argument presented, *supra*, regarding claim 18. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 23 recites, *inter alia*, yet the applied portions of the relied upon references fail to teach, "a frame encoding of at least one HPNA v2-formatted frame is modified to allow a higher encoding rate than permitted by HPNA v2."

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 23.

11. Claim 25

Since claim 25 depends from claim 18, Applicant incorporates by reference each argument presented, *supra*, regarding claim 18. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

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For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 25.

12. Claim 32

The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 32, upon which each of claims 33-48 depends, recites, *inter alia*, yet the applied portions of the relied upon references fail to teach, "a Media Control Station (MC STA) maintaining a list of sessions in enhanced stations (STAs) using the communications medium, each enhanced STA being one of the MC STA and a non-MC STA, and gaining access to the communications medium in a centralized manner, the MC STA transmitting a message to at least one selected non-MC STA using the communications medium, the transmitted message being transmitted with a highest physical layer priority level available in a first HPNA v2-formatted frame."

For at least these reasons, it is respectfully submitted that the rejection of claim 32 is unsupported by the applied portions of the relied upon references and should be withdrawn. Also, the rejection of claims 33-48, each ultimately depending from independent claim 32, is unsupported by Garg and also should be withdrawn.

13. Claim 33

Since claim 33 depends from claim 32, Applicant incorporates by reference each argument presented, *supra*, regarding claim 32. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 33 recites, *inter alia*, yet the applied portions of the relied upon references fail to teach, "a frame encoding of at least one HPNA v2-formatted frame is modified to allow a higher encoding rate than permitted by HPNA v2."

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For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 33.

14. Claim 37

Since claim 37 depends from claim 32, Applicant incorporates by reference each argument presented, *supra*, regarding claim 32. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 37.

15. Claim 38

Since claim 38 depends from claim 32, Applicant incorporates by reference each argument presented, *supra*, regarding claim 32. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 38.

16. Claim 44

Since claim 44 depends from claim 32, Applicant incorporates by reference each argument presented, *supra*, regarding claim 32. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 44 recites, *inter alia*, yet the applied portions of the relied upon references fail to teach, "the message from the MC STA is received at least one selected non-MC STA."

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 44.

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Since claim 45 depends from claim 32, Applicant incorporates by reference each argument presented, *supra*, regarding claim 32. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 45 recites, *inter alia*, yet the applied portions of the relied upon references fail to teach, "wherein selected non-MC STA receiving the message responds with a frame transmitted using the highest physical layer priority level available in an HPNA v2-formatted frame at an appropriate time based on the received message from the MC STA."

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 45.

18. Claim 47

Since claim 47 depends from claim 32, Applicant incorporates by reference each argument presented, *supra*, regarding claim 32. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 47 recites, *inter alia*, yet the applied portions of the relied upon references fail to teach, "wherein the MC STA receives a reply message from at least one selected non-MC STA in response to the transmitted message from the MC STA, the received reply message starting at a highest physical layer priority level available in a second HPNA v2-formatted frame."

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 47.

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The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 49, upon which each of claims 50-61 depends, recites, *inter alia*, yet the applied portions of the relied upon references fail to teach, “a non-Media Control Station (non-MC STA) receiving a message from a Media Control (MC) STA, the non-MC STA and the MC STA each being enhanced STAs that gain access to the communications medium in a centralized manner, the MC STA maintaining a list of sessions in enhanced STAs using the communications medium, the received message starting in a highest physical layer priority level available in a first HPNA v2-formatted frame, the non-MC STA transmitting a reply message in response to the received message to the MC STA, the reply message being transmitted using a highest physical layer priority level available with a second HPNA v2-formatted frame.”

For at least these reasons, it is respectfully submitted that the rejection of claim 49 is unsupported by Garg and should be withdrawn. Also, the rejection of claims 50-61, each ultimately depending from independent claim 49, is unsupported by Garg and also should be withdrawn.

20. Claim 50

Since claim 50 depends from claim 49, Applicant incorporates by reference each argument presented, *supra*, regarding claim 49. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 33 recites, *inter alia*, yet the applied portions of the relied upon references fail to teach, “a frame encoding of at least one HPNA v2-formatted frame is modified to allow a higher encoding rate than permitted by HPNA v2.”

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 50.

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Since claim 54 depends from claim 49, Applicant incorporates by reference each argument presented, *supra*, regarding claim 49. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. See MPEP 707.07(d).

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 54.

22. Claim 55

Since claim 55 depends from claim 49, Applicant incorporates by reference each argument presented, *supra*, regarding claim 49. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. See MPEP 707.07(d).

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 55.

II. The Obviousness Rejections

Each of claims 3-5, 8-12, 15, 17, 20-22, 24, 26-31, 34-36, 39-43, 46, 48, 51-53, and 56-61, 80-91 was rejected under 35 U.S.C. 103(a) as being unpatentable over various combinations of U.S. Patent No. 6,862,630 ("Garg"), U.S. Patent No. 6,674,765 ("Chuah"), and/or U.S. Patent No. 6,862,280 ("Bertagna"). Each of these rejections is respectfully traversed.

A. Legal Standards**1. *Prima Facie* Criteria for an Obviousness Rejection**

Over 50 years ago, in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), the Supreme Court established factors regarding the factual inquiry required to establish obviousness. The factors include:

1. determining the scope and contents of the prior art;
2. ascertaining differences between the prior art and the claims at issue;

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3. resolving the level of ordinary skill in the pertinent art; and
4. considering objective evidence indicating obviousness or nonobviousness.

The Federal Circuit has applied *Graham*'s required factual inquiry in numerous legal precedents that are binding on the USPTO.

It is recognized that most patentable inventions arise from a combination of old elements and often, each element is found in the prior art. *In re Rouffet*, 149 F.3d 1350, 1357 (Fed. Cir. 1998). However, mere identification in the prior art of each element is insufficient to defeat the patentability of the combined subject matter as a whole. *Id.* at 1355, 1357.

Instead, "[t]o establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach... all the claim limitations." *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); MPEP 2143.

Moreover, the "Patent Office has the initial duty of supplying the factual basis for its rejection." *In re Warner*, 379 F.2d 1011, 154 USPQ 173, 178 (CCPA 1967), *cert. denied*, 389 U.S. 1057, *reh'g denied*, 390 U.S. 1000 (1968). "It may not... resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in its factual basis". *Id.*

It is legal error to "substitute[] supposed *per se* rules for the particularized inquiry required by section 103. It necessarily produces erroneous results." *See, In re Ochiai*, 71 F.3d 1565, 1571, 37 USPQ2d 1127, 1132-33 (Fed. Cir. 1998); *In re Wright*, 343 F.2d 761, 769-770, 145 USPQ 182, 190 (CCPA 1965).

"Once the examiner... carries the burden of making out a *prima facie* case of unpatentability, 'the burden of coming forward with evidence or argument shifts to the applicant.'" *In re Alton*, 76 F.3d 1168, 37 USPQ2d 1578 (Fed. Cir. 1996) (*quoting In re Oetiker*, 977 F.2d at 1445, 24 USPQ2d at 1444).

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A bald assertion of knowledge generally available to one of ordinary skill in the art to bridge the evidentiary gap is improper. Such unfounded assertions are not permissible substitutes for evidence. *See, In re Lee*, 277 F.3d 1338, 1435, 61 USPQ2d 1430, 1435 (Fed. Cir. 2002). That is, deficiencies of the cited references can not be remedied by general conclusions about what is basic knowledge or common sense to one of ordinary skill in the art. *In re Zurko*, 258 F.3d 1379, 1385-86 (Fed. Cir. 2001).

3. Motivation or Suggestion to Combine Prior Art References

Under the *Graham* analysis, the “examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness.” *See*, MPEP 2142. The requirements for meeting this burden are clear.

To factually support a *prima facie* conclusion of obviousness, an Office Action must clearly and objectively prove “the reasons one of ordinary skill in the art would have been motivated to select the references”. *In re Rouffet*, 149 F.3d 1350, 1359, 47 USPQ2d 1453, 1459 (Fed. Cir. 1998); *In re Johnston*, 435 F.3d 1381 (Fed. Cir. 2006).

Further, “the examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed.” (emphasis added). *In re Rouffet*, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1458 (Fed. Cir. 1998); *In re Sang-Su Lee*, 277 F.3d 1338, 1342, 61 USPQ2d 1430, 1433 (Fed. Cir. 2002).

To show these reasons, “[p]articular findings must be made”. *In re Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). Such factual findings must be supported by “concrete evidence in the record”. *In re Zurko*, 258 F.3d 1379, 1385-86, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001).

Moreover, a showing of combinability must be “clear and particular”. *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 161(Fed. Cir. 1999). That strong showing is needed because, “obviousness requires proof ‘that the skilled artisan . . . would select the elements from the cited prior art references for combination in the manner claimed’”. *In re Johnston*, 435

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F.3d 1381 (Fed. Cir. 2006) (quotation omitted) (emphasis added).

Thus, the Office Action must clearly, particularly, and objectively prove some “suggestion, motivation, or teaching in the prior art that would have led a person of ordinary skill in the art to”:

“select the references”;

“select the teachings of [the] separate references”; and

“combine [those teachings] in the way that would produce the claimed” subject matter.

In re Johnston, 435 F.3d 1381 (Fed. Cir. 2006) (internal citations omitted). *See also, In re Dance*, 160 F.3d 1339, 1343, 48 USPQ2d 1635, 1637 (Fed. Cir. 1998) (discussing “the test of whether it would have been obvious to select **specific** teachings and combine them as did the applicant”) (emphasis added); and *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1143, 227 USPQ 543, 551 (Fed. Cir. 1985) (“When prior art references require selective combination... to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself.”). “The absence of . . . a suggestion to combine is dispositive in an obviousness determination.” *Gambro Lundia AB v. Baxter Healthcare Corp.*, 110 F.3d 1573, 1579, 42 USPQ2d 1378, 1383 (Fed. Cir. 1997).

Further, these requirements apply regardless of whether the Office Action relies upon modifying or combining purported teachings.

Although couched in terms of combining teachings found in the prior art, the same inquiry must be carried out in the context of a purported obvious modification of the prior art. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the **desirability** of the modification.... It is impermissible to use the claimed invention as an instruction manual or template to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.

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In re Fritch, 972 F.2d 1260, 23 USPQ 2d 1780, 1783-1784 (Fed. Cir. 1992) (citing *In re Gorman*, 933 F.2d 982, 987, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991); *Interconnect Planning Corp. v. Feil*, 774 F.2d 1132, 1138, 227 USPQ 543, 547 (Fed. Cir. 1985); and *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988) (internal quotations omitted) (emphasis added)).

4. Next Office Action

If an Office Action fails to set forth sufficient facts to provide a *prima facie* basis for the rejections, any future rejection based on the applied reference will necessarily be factually based on an entirely different portion of that reference, and thus will be legally defined as a “new grounds of rejection.” Consequently, any Office Action containing such rejection can not properly be made final. See, *In re Wiechert*, 152 USPQ 247, 251-52 (CCPA 1967) (defining “new ground of rejection” and requiring that “when a rejection is factually based on an entirely different portion of an existing reference the appellant should be afforded an opportunity to make a showing of unobviousness vis-a-vis such portion of the reference”), and *In re Warner*, 379 F.2d 1011, 154 USPQ 173, 178 (CCPA 1967) (the USPTO “has the initial duty of supplying the factual basis for its rejection”).

B. Analysis**1. Claim 3**

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 3 depends from claim 1, Applicant incorporates by reference each argument presented, *supra*, regarding claim 1.

Claim 3 recites, *inter alia*, yet the applied portions of Garg fail to teach, “a frame header encoding of at least the first HPNA v2-formatted frame is modified to allow one of a polling frame, a beacon frame, a Centralized Contention (CC) frame, and a management frame.” The present Office Action alleges that “Chuah teaches the method where a frame header encoding of at least the first HPNA v2-formatted frame is modified to allow one of a polling frame, a beacon

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frame, a Centralized (CC) frame, and a management frame (Chuah, col. 8, lines 15-18)". See Page 7. Yet this applied portion of Chuah allegedly states "[i]n UMTS, a base station (e.g., base station 6) broadcasts (step 1102) access priority system parameters in a beacon or pilot signal to the remote terminals (RTs) in its coverage area."

Applicant respectfully asks where this applied portion of Chuah teaches:

- a.) anything regarding "HPNA" whatsoever?
- b.) a "first HPNA v2-formatted frame"?
- c.) "a frame header encoding of at least the first HPNA v2-formatted frame" that "is modified" in any manner whatsoever? and
- d.) "a frame header encoding of at least the first HPNA v2-formatted frame is modified to allow one of a polling frame, a beacon frame, a Centralized Contention (CC) frame, and a management frame"?

Applicant respectfully submits that at least this subject matter is not taught by the applied portions of the relied upon references. Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 3.

2. Claim 4

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 4

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depends from claim 1, Applicant incorporates by reference each argument presented, *supra*, regarding claim 1.

Claim 4 recites, *inter alia*, yet the applied portions of Garg fail to teach, “when the HPNA v2-formatted frame is modified to allow a Medium Allocation Element (MAE) in the management frame.” The present Office Action alleges that “Chuah teaches the method where when the HPNA v2-formatted frame is modified to allow a Medium Allocation Element (MAE) in the management frame (Chuah, col. 8, lines 15-18”. See Page 8. Yet this applied portion of Chuah is presented, *supra*, regarding claim 3.

Applicant respectfully asks where this applied portion of Chuah teaches:

- a.) anything regarding “HPNA” whatsoever?
- b.) an “HPNA v2-formatted frame”?
- c.) “Medium Allocation Element (MAE) in the management frame”? and
- d.) “when the HPNA v2-formatted frame is modified to allow a Medium Allocation Element (MAE) in the management frame”?

Applicant respectfully submits that at least this subject matter is not taught by the applied portions of the relied upon references. Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 4.

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None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 5 depends from claim 1, Applicant incorporates by reference each argument presented, *supra*, regarding claim 1.

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 5.

4. Claim 8

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 8 depends from claim 1, Applicant incorporates by reference each argument presented, *supra*, regarding claim 1.

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of

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obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 8.

5. Claim 9

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 9 depends from claim 1, Applicant incorporates by reference each argument presented, *supra*, regarding claim 1.

Claim 9 recites, *inter alia*, yet the applied portions of Garg fail to teach, “repeatedly selecting a highest priority Backoff Signal slot until the MC STA gains access priority to the communications medium over each HPNA v2 STA.” The present Office Action alleges that “Chuah teaches the method where the step of selecting the Backoff Signal includes a step of repeatedly selecting the highest priority Backoff Signal slot until the MC STA gains access priority to the communications medium over each HPNA v2 STA (Chuah, col. 10, lines 9-20)”. See Page 12. Yet this applied portion of Chuah allegedly states:

[t]he embodiment illustrated in FIG. 6 is hereinafter referred to as Random Backoff Based Access Priority (RBBAP). Generally, in the RBBAP approach, each priority class is advantageously assigned a different average backoff delay. Requests associated with higher access priority will have a smaller average backoff delay. Whenever there is a collision or other reason an access request is not successfully received at the base station, the remote terminal, depending on the class i , chooses a random delay distributed between the range $(D_{sub,i}, \dots, D_{sub,i})$ with $D_{sub,i} \leq D_{sub,i}$, $D_{sub,i} \leq D_{sub,i+1}$, $D_{sub,i+1} \leq D_{sub,i+1}$, where class i has a higher priority than class $i+1$.

Applicant respectfully asks where this applied portion of Chuah teaches:

- a.) anything regarding “HPNA” whatsoever?
- b.) an “HPNA v2 STA”?

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c.) a "highest priority Backoff Signal slot"?

d.) "repeatedly selecting a highest priority Backoff Signal slot until the MC STA gains access priority to the communications medium over each HPNA v2 STA"?

Applicant respectfully submits that at least this subject matter is not taught by the applied portions of the relied upon references. Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 9.

6. Claim 10

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 10 depends from claim 1, Applicant incorporates by reference each argument presented, *supra*, regarding claim 1.

Claim 10 recites, *inter alia*, yet the applied portions of Garg fail to teach, "wherein at least one HPNA v2 STA repeatedly selects a Backoff Signal slot based on a predetermined sequence of Backoff Signal slot selections." The present Office Action alleges that "Chuah teaches the method where at least one HPNA v2 STA repeatedly selects a Backoff Signal slot based on a predetermined sequence of Backoff Signal slot selections (Chuah, col. 10, lines 9-20)". See Page 13. Yet this applied portion of Chuah is presented, *supra*, regarding claim 9.

Applicant respectfully asks where this applied portion of Chuah teaches:

a.) anything regarding "HPNA" whatsoever?

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- b.) an "HPNA v2 STA"?
- c.) a "Backoff Signal slot"? and
- d.) "wherein at least one HPNA v2 STA repeatedly selects a Backoff Signal slot based on a predetermined sequence of Backoff Signal slot selections"?

Applicant respectfully submits that at least this subject matter is not taught by the applied portions of the relied upon references. Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 10.

7. Claim 11

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 11 depends from claim 1, Applicant incorporates by reference each argument presented, *supra*, regarding claim 1.

Claim 11 recites, *inter alia*, yet the applied portions of Garg fail to teach, "wherein each predetermined sequence of Backoff Signal slot selections used by an HPNA v2 STA does not include a Backoff Signal slot selection that is associated with the highest access priority." The present Office Action alleges that "Chuah teaches the method where each predetermined sequence of Backoff Signal slot selections used by an HPNA v2 STA does not include a Backoff Signal slot selection that is associated with the highest access priority (Chuah, col. 9, lines 55-64)". See Page 14. Yet this applied portion of Chuah allegedly states:

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[i]t is to be appreciated that a backoff procedure is preferably employed since, assuming several remote terminals unsuccessfully attempted to transmit access request signals at about the same time (the lack of success may be due to, for example, collisions between requests), it is not preferable for each remote terminal to attempt to re-transmit at around the same time. Thus, each terminal delays its retransmission for a randomly selected amount of time such that the likelihood of collisions of the re-transmitted access requests is decreased.

Applicant respectfully asks where this applied portion of Chuah teaches:

- a.) anything regarding "HPNA" whatsoever?
- b.) an "HPNA v2 STA"?
- c.) a "Backoff Signal slot"?
- d.) a "predetermined sequence of Backoff Signal slot selections"? and
- e.) "wherein each predetermined sequence of Backoff Signal slot selections used by an HPNA v2 STA does not include a Backoff Signal slot selection that is associated with the highest access priority"?

Applicant respectfully submits that at least this subject matter is not taught by the applied portions of the relied upon references. Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 11.

PATENT**Application # 10/042,142****Attorney Docket # 2000-0672 (1014-199)****8. Claim 12**

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 12 depends from claim 1, Applicant incorporates by reference each argument presented, *supra*, regarding claim 1.

Claim 12 recites, *inter alia*, yet the applied portions of Garg fail to teach, “wherein the step of repeatedly selecting a Backoff Signal slot for gaining access to the communications medium is based on a predetermined sequence of Backoff Signal slot selections.” The present Office Action alleges that “Chuah teaches the method where the step of repeatedly selecting a Backoff Signal slot for gaining access to the communications medium is based on a predetermined sequence of Backoff Signal slot selections (Chuah, col. 10, lines 9-20)”. See Page 13. Yet this applied portion of Chuah is presented, *supra*, regarding claim 9.

Applicant respectfully asks where this applied portion of Garg teaches:

- a.) anything regarding a “Backoff Signal slot” whatsoever?
- b.) “a predetermined sequence of Backoff Signal slot selections”?
- c.) a “Backoff Signal slot for gaining access to the communications medium”? and
- d.) “wherein the step of repeatedly selecting a Backoff Signal slot for gaining access to the communications medium is based on a predetermined sequence of Backoff Signal slot selections.”?

Applicant respectfully submits that at least this subject matter is not taught by the applied portions of the relied upon references.

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of

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obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 12.

9. Claim 15

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 15 depends from claim 13, Applicant incorporates by reference each argument presented, *supra*, regarding claim 13.

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 15.

10. Claim 17

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 17 depends from claim 1, Applicant incorporates by reference each argument presented, *supra*, regarding claim 1.

Claim 12 recites, *inter alia*, yet the applied portions of Garg fail to teach, "remapping each priority level at a link sublayer for each HPNA v2 STA that is associated with the

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communications medium prior to the step of transmitting the message from the MC STA so that no data packet from an upper layer in each HPNA v2 STA associated with the communications medium is mapped to the highest physical layer priority level of a MAC sublayer of the HPNA v2 STA.” The present Office Action alleges that “Bertagna teaches the method where at least one HPNA v2 STA is associated with the communications medium, the method further comprising a step of remapping each priority level at a link sublayer for each HPNA v2 STA that is associated with the communications medium prior to the step of transmitting the message from the MC STA so that no data packet from an upper layer in each HPNA v2 STA associated with the communications medium is mapped to the highest physical layer priority level of a MAC sublayer of the HPNA v2 STA (Bertagna, col. 8, line 58 – col. 9, line 3)”. See Page 18. Yet this applied portion of Bertagna allegedly states:

[a] tagged packet is received on a physical port of switch 100 (1410) and a virtual port identifier is determined based on an identifier associated with the physical port (1420). Based on the virtual port identifier and the VLAN identifier component of the inbound tag a virtual trunk identifier is determined (1430). The virtual trunk identifier and the priority component of the inbound tag are used to determine an outbound tag priority (1440) and, separately, a source address of the inbound packet is used to make a priority selection (1450). The priority selection indicator and the outbound tag priority are applied to a local header of the packet (1460) and the packet is transmitted (1470).

Applicant respectfully asks where this applied portion of Bartagna teaches:

- a.) anything regarding “HPNA” whatsoever?
- b.) “a link sublayer for each HPNA v2 STA”?
- c.) a “step of transmitting the message from the MC STA so that no data packet from an upper layer in each HPNA v2 STA associated with the communications medium is mapped to the highest physical layer priority level of a MAC sublayer of the HPNA v2 STA”? and
- d.) “remapping each priority level at a link sublayer for each HPNA v2 STA that is associated with the communications medium prior to the step of transmitting the

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message from the MC STA so that no data packet from an upper layer in each HPNA v2 STA associated with the communications medium is mapped to the highest physical layer priority level of a MAC sublayer of the HPNA v2 STA.”?

Applicant respectfully submits that at least this subject matter is not taught by the applied portions of the relied upon references.

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 17.

11. Claim 20

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 20 depends from claim 18, Applicant incorporates by reference each argument presented, *supra*, regarding claim 18. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 20 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, “wherein a frame header encoding of at least the first HPNA v2 formatted frame is modified to allow one of a polling frame, a beacon frame, a Centralized Contention (CC) frame, and a management frame.”

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Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 20.

12. Claim 21

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 21 depends from claim 18, Applicant incorporates by reference each argument presented, *supra*, regarding claim 18. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 21 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein when the first HPNA v2-formatted frame is modified to allow a Medium Allocation Element (MAE) in the management frame."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of

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obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 21.

13. Claim 22

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 22 depends from claim 18, Applicant incorporates by reference each argument presented, *supra*, regarding claim 18. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 22 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein the management frame is a Beacon frame."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 22.

14. Claim 24

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 24

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depends from claim 18, Applicant incorporates by reference each argument presented, *supra*, regarding claim 18. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 24 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein the received message includes a Medium Allocation Packet (MAP) for a plurality of non-MC STAs, the MAP including information relating to one of a specific time period assigned to each of a plurality of non-MC STAs, an order for each of the plurality of non-MC STAs to use the communications medium, an order for transmissions for each of the plurality of non-MC STAs, and a maximum time for each of the plurality of non-MC STAs to occupy the communications medium."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 24.

15. Claim 26

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 26 depends from claim 18, Applicant incorporates by reference each argument presented, *supra*, regarding claim 18. The Office Action appears to improperly group claims together in a

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common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 26 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, “determining at the non-MC STA whether the reply message has collided with a message transmitted from an HPNA v2 STA; selecting a Backoff Signal slot at the non-MC STA for contending for access to the communications medium when the reply message is determined to have collided with a message from an HPNA v2 STA, the selected Backoff Signal slot being associated with a highest access priority to the communications medium; and retransmitting the collided reply message to the MC STA when access priority to the communications medium is gained.”

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 26.

16. Claim 27

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 27 depends from claim 18, Applicant incorporates by reference each argument presented, *supra*, regarding claim 18. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

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For example, claim 27 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, “wherein the step of selecting the Backoff Signal includes a step of repeatedly selecting a Backoff Signal until the non-MC STA gains access priority to the communications medium over each HPNA v2 STA.”

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 27.

17. Claim 28

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 28 depends from claim 18, Applicant incorporates by reference each argument presented, *supra*, regarding claim 18. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 28 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, “wherein at least one HPNA v2 STA repeatedly selects a Backoff Signal slot based on a predetermined sequence of Backoff Signal slot selections.”

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying

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the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 28.

18. Claim 29

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 29 depends from claim 18, Applicant incorporates by reference each argument presented, *supra*, regarding claim 18. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 29 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein each predetermined sequence of Backoff Signal slot selections does not include a Backoff Signal slot selection that is associated with the highest access priority."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

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For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 29.

19. Claim 30

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 30 depends from claim 18, Applicant incorporates by reference each argument presented, *supra*, regarding claim 18. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 30 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein the step of selecting a Backoff Signal slot for gaining access priority to the communications medium is based on a predetermined sequence of Backoff Signal slot selections."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 30.

20. Claim 31

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 31

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depends from claim 18, Applicant incorporates by reference each argument presented, *supra*, regarding claim 18. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 31 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein each priority level is remapped at a link sublayer for each HPNA v2 STA that is associated with the communications medium prior to the step of receiving the message from the MC STA so that no data packet from an upper layer in each HPNA v2 STA is mapped to a highest physical layer priority level of a MAC sublayer of each HPNA v2 STA."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 31.

21. Claim 34

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 34 depends from claim 32, Applicant incorporates by reference each argument presented, *supra*, regarding claim 32. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

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For example, claim 34 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, “wherein the step of selecting a Backoff Signal slot for gaining access priority to the communications medium is based on a predetermined sequence of Backoff Signal slot selections.”

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 34.

22. Claim 35

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 35 depends from claim 32, Applicant incorporates by reference each argument presented, *supra*, regarding claim 32. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 35 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, “wherein when the first HPNA v2-formatted frame is modified to allow a Medium Allocation Element (MAE) in the management frame.”

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying

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the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 35.

23. Claim 36

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 36 depends from claim 32, Applicant incorporates by reference each argument presented, *supra*, regarding claim 32. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 36 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein the management frame is a Beacon frame."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 36.

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None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 39 depends from claim 32, Applicant incorporates by reference each argument presented, *supra*, regarding claim 32. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 39 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein the MC STA determines whether the message has collided with a message transmitted from an HPNA v2 STA, selects a Backoff Signal slot for contending for access to the communications medium when the message is determined to have collided with a message from an HPNA v2 STA, the selected Backoff Signal slot being associated with a highest access priority to the communications medium, and retransmitting the collided message when access priority to the communications medium is gained."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 39.

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None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 40 depends from claim 32, Applicant incorporates by reference each argument presented, *supra*, regarding claim 32. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 40 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein the MC STA repeatedly selects a highest priority Backoff Signal slot until the MC STA gains access priority to the communications medium over each HPNA v2 STA."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 40.

26. Claim 41

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 41 depends from claim 32, Applicant incorporates by reference each argument presented, *supra*, regarding claim 32. The Office Action appears to improperly group claims together in a

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common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 41 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein at least one HPNA v2 STA repeatedly selects a Backoff Signal slot based on a predetermined sequence of Backoff Signal slot selections."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 41.

27. Claim 42

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 42 depends from claim 32, Applicant incorporates by reference each argument presented, *supra*, regarding claim 32. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 42 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein each predetermined sequence of Backoff Signal slot selections does not include a Backoff Signal slot selection that is associated with a highest access priority."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully

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traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 42.

28. Claim 43

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 43 depends from claim 32, Applicant incorporates by reference each argument presented, *supra*, regarding claim 32. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 43 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein the MC STA repeatedly selects a Backoff Signal slot for gaining access priority to the communications medium based on a predetermined sequence of Backoff Signal slot selections."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of

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obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 43.

29. Claim 46

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 46 depends from claim 44, Applicant incorporates by reference each argument presented, *supra*, regarding claim 44. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 46 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein the received message includes a Medium Allocation Packet (MAP) for a plurality of non-MC STAs, the MAP including information relating to one of a specific time period assigned to each of the plurality of non-MC STAs, an order for each of the plurality of non-MC STAs to use the communications medium, an order for transmissions for each of the plurality of non-MC STAs, and a maximum time for each of the plurality of non-MC STAs to occupy the communications medium."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

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For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 46.

30. Claim 48

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 48 depends from claim 44, Applicant incorporates by reference each argument presented, *supra*, regarding claim 44. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 48 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein the MC STA remaps each priority level at a link sublayer for each HPNA v2 STA that is associated with the communications medium prior to transmitting the message so that no data packet from an upper layer in each HPNA v2 STA associated with the communications medium is mapped to a highest physical layer priority level of a MAC sublayer of the HPNA v2 STA."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 48.

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None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 51 depends from claim 49, Applicant incorporates by reference each argument presented, *supra*, regarding claim 49. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 51 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein a frame header encoding of at least the first HPNA v2 formatted frame is modified to allow one of a polling frame, a beacon frame, a Centralized Contention (CC) frame, and a management frame."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 51.

32. Claim 52

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 52 depends from claim 51, Applicant incorporates by reference each argument presented, *supra*, regarding claim 51. The Office Action appears to improperly group claims together in a

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common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 52 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, “wherein when the HPNA v2-formatted frame is modified to allow a Medium Allocation Element (MAE) in the management frame.”

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 52.

33. Claim 53

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 53 depends from claim 52, Applicant incorporates by reference each argument presented, *supra*, regarding claim 52. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 53 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, “wherein the management frame is a Beacon frame.”

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying

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the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 53.

34. Claim 56

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 56 depends from claim 55, Applicant incorporates by reference each argument presented, *supra*, regarding claim 55. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 56 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein the non-MC STA determines whether the reply message has collided with a message transmitted from an HPNA v2 STA, selects a Backoff Signal slot for contending for access to the communications medium when the reply message is determined to have collided with a message from an HPNA v2 STA, the selected Backoff Signal slot being associated with a highest access priority to the communications medium, the non-MC STA retransmitting the reply message when access priority to the communications medium is gained."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every

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limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 56.

35. Claim 57

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 57 depends from claim 56, Applicant incorporates by reference each argument presented, *supra*, regarding claim 56. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 57 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein the non-MC STA repeatedly selects the highest access priority Backoff Signal until the non-MC STA gains access priority to the communications medium over each HPNA v2 STA."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 57.

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None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 58 depends from claim 57, Applicant incorporates by reference each argument presented, *supra*, regarding claim 57. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 58 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein at least one HPNA v2 STA repeatedly selects a Backoff Signal slot based on a predetermined sequence of Backoff Signal slot selections."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 58.

37. Claim 59

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 59 depends from claim 58, Applicant incorporates by reference each argument presented, *supra*, regarding claim 58. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

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For example, claim 59 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein each predetermined sequence of Backoff Signal slot selections does not include a Backoff Signal slot selection that is associated with the highest access priority."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 59.

38. Claim 60

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 60 depends from claim 56, Applicant incorporates by reference each argument presented, *supra*, regarding claim 56. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 60 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein the non-MC STA repeatedly selects a Backoff Signal slot for gaining access priority to the communications medium based on a predetermined sequence of Backoff Signal slot selections."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully

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traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 60.

39. Claim 61

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 61 depends from claim 49, Applicant incorporates by reference each argument presented, *supra*, regarding claim 49. The Office Action appears to improperly group claims together in a common rejection without any showing that the rejection is equally applicable to all claims in the group. That is never appropriate. *See* MPEP 707.07(d).

For example, claim 61 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "wherein each priority level is remapped at a link sublayer for each HPNA v2 STA that is associated with the communications medium prior to the message being received by the non-MC STA so that no data packet from an upper layer in each HPNA v2 STA is mapped to a highest physical layer priority level of a MAC sublayer of each HPNA v2 STA."

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of

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obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 61.

40. Claim 80

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness.

Claim 80 recites, *inter alia*, yet the applied portions of Garg fail to teach, "remapping at a link sublayer for each HPNA v2 STA that is associated with the communications medium so that no data packet from an upper layer in each HPNA v2 STA is mapped to a highest physical layer priority level of a MAC sublayer of each HPNA v2 STA." The present Office Action alleges that "Bertagna teaches the method where ... remapping ... at the link sublayer for each HPNA v2 STA that is associated with the communications medium so that no data packet from an upper layer in each HPNA v2 STA is mapped to a highest physical layer priority level of a MAC sublayer of each HPNA v2 STA (Bertagna, col. 8, line 58 – col. 9, line 3)". See Page 19. This applied portion of Bertagna is presented, *supra*, regarding claim 17.

Applicant respectfully asks where this applied portion of Bartagna teaches:

- a.) anything regarding "HPNA" whatsoever?
- b.) "a link sublayer for each HPNA v2 STA"?
- c.) a "step of transmitting the message from the MC STA so that no data packet from an upper layer in each HPNA v2 STA associated with the communications medium is mapped to the highest physical layer priority level of a MAC sublayer of the HPNA v2 STA"?
- d.) "remapping at a link sublayer for each HPNA v2 STA that is associated with the communications medium so that no data packet from an upper layer in each HPNA v2 STA is mapped to a highest physical layer priority level of a MAC sublayer of each HPNA v2 STA."?

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Applicant respectfully submits that at least this subject matter is not taught by the applied portions of the relied upon references.

Applicant respectfully submits that at least this subject matter is not taught by the applied portions of the relied upon references. Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 80.

41. Claim 81

None of the applied portions of the references relied upon in the Office Action, whether considered alone or in combination, establish a *prima facie* case of obviousness. Since claim 81 depends from claim 80, Applicant incorporates by reference each argument presented, *supra*, regarding claim 80.

Claim 81 recites, *inter alia*, yet none of the applied portions of the relied upon references teaches, "maintaining a list at the MC STA of sessions in enhanced STAs using the communications medium."

The present Office Action alleges that this claimed subject matter is found in Garg at "col. 8, lines 23-37". See Page 19. Yet this applied portion of Garg is presented, *supra*, regarding claim 1.

Applicant respectfully asks:

- a) where does this applied portion of Garg teach a "session"?
- b) where does this applied portion of Garg teach "a list of sessions"?

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- c) where does this applied portion of Garg teach “maintaining a list of sessions in enhanced stations (STAs) using the communications medium”

Applicant respectfully submits that at least this claimed subject matter is not present in the applied portions of the relied upon references.

Applicant respectfully submits that at least this subject matter is not taught by the applied portions of the relied upon references. Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 81.

23. Claim 82

Since claim 82 depends from claim 80, Applicant incorporates by reference each argument presented, *supra*, regarding claim 80.

Claim 82 recites, *inter alia*, yet the applied portions of Garg fail to teach, “a frame encoding of at least one HPNA v2-formatted frame is modified to allow a **higher encoding rate than permitted by HPNA v2.**” The present Office Action alleges that Garg teaches this claimed subject matter at “col. 8, lines 43-47”. See Page 20. Yet this applied portion of Garg is presented, *supra*, regarding claim 2. Applicant respectfully asks where this applied portion of Garg teaches:

- a.) “encoding” anything whatsoever?
- b.) “a frame encoding of at least one HPNA v2-formatted frame”?
- c.) “a higher encoding rate than permitted by HPNA v2”? and

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d.) "a frame encoding of at least one HPNA v2-formatted frame is modified to allow a higher encoding rate than permitted by HPNA v2"?

Applicant respectfully submits that at least this subject matter is not taught by the applied portions of the relied upon references. Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 82.

24. Claim 83

Since claim 83 depends from claim 80, Applicant incorporates by reference each argument presented, *supra*, regarding claim 80.

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 83.

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Since claim 84 depends from claim 80, Applicant incorporates by reference each argument presented, *supra*, regarding claim 80.

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 84.

26. Claim 85

Since claim 85 depends from claim 80, Applicant incorporates by reference each argument presented, *supra*, regarding claim 80.

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

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For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 85.

27. Claim 86

Since claim 86 depends from claim 80, Applicant incorporates by reference each argument presented, *supra*, regarding claim 80.

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 86.

28. Claim 87

Since claim 87 depends from claim 80, Applicant incorporates by reference each argument presented, *supra*, regarding claim 80.

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of

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obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 87.

29. Claim 88

Since claim 88 depends from claim 80, Applicant incorporates by reference each argument presented, *supra*, regarding claim 80.

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 88.

30. Claim 89

Since claim 89 depends from claim 80, Applicant incorporates by reference each argument presented, *supra*, regarding claim 80.

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every

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limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 89.

31. Claim 90

Since claim 90 depends from claim 80, Applicant incorporates by reference each argument presented, *supra*, regarding claim 80.

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 90.

32. Claim 91

Since claim 87 depends from claim 88, Applicant incorporates by reference each argument presented, *supra*, regarding claim 88.

Thus, even if there were motivation or suggestion to modify or combine the applied portions of the references relied upon in the Office Action (an assumption that is respectfully traversed), and even if there were a reasonable expectation of success in combining or modifying the applied portions of the references relied upon in the Office Action (another assumption that is respectfully traversed), the applied portions of the references relied upon in the Office Action, as

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attempted to be modified and/or combined, still do not expressly or inherently teach every limitation of the independent claims, and consequently fail to establish a *prima facie* case of obviousness. Consequently, for at least the reasons mentioned above, reconsideration and withdrawal of these rejections is respectfully requested.

For at least these reasons, Applicant respectfully requests a withdrawal of the rejection of claim 91.

CONCLUSION

It is respectfully submitted that, in view of the foregoing amendments and remarks, the application as amended is in clear condition for allowance. Reconsideration, withdrawal of all grounds of rejection, and issuance of a Notice of Allowance are earnestly solicited.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. 1.16 or 1.17 to Deposit Account No. 50-2504. The Examiner is invited to contact the undersigned at 434-972-9988 to discuss any matter regarding this application.

Respectfully submitted,

Michael Haynes PLC



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Date: 22 September 2006

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